

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA

DONALD DURRANT FARROW,)	
)	
Petitioner,)	
)	
v.)	1:20CV19
)	
WARDEN JANET KILPATRICK,)	
)	
Respondent.)	

ORDER

This matter is before this court for review of the Order and Recommendation filed on January 29, 2020, by the Magistrate Judge in accordance with 28 U.S.C. § 636(b). (Doc. 8.) In the Recommendation, the Magistrate Judge recommends that the Petition be dismissed for failure to apply to the United States Court of Appeals for the Fourth Circuit for an order authorizing this district court to consider the current Petition as is required by 28 U.S.C. § 2244. The Recommendation was served on the parties to this action on January 29, 2020. (Doc. 9.) Petitioner filed objections, (Doc. 10), within the time limit prescribed by Section 636.

This court is required to "make a de novo determination of those portions of the [Magistrate Judge's] report or specified proposed findings or recommendations to which objection is made." 28 U.S.C. § 636(b)(1). This court "may accept, reject, or

modify, in whole or in part, the findings or recommendations made by the [M]agistrate [J]udge. . . . [O]r recommit the matter to the [M]agistrate [J]udge with instructions." Id.

This court has appropriately reviewed the portions of the Recommendation to which objections were made and has made a de novo determination which is in accord with the Magistrate Judge's Recommendation. This court therefore adopts the Recommendation.

IT IS THEREFORE ORDERED that the Magistrate Judge's Recommendation, (Doc. 8), is **ADOPTED. IT IS FURTHER ORDERED** that Petitioner's § 2241 petition, (Doc. 1), is construed as a Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus by a Person in State Custody, and that this action is hereby **DISMISSED** for failure to apply to the Fourth Circuit Court of Appeals for an order authorizing this district to consider the current petition as is required by 28 U.S.C. § 2244. Finding no substantial issue for appeal concerning the denial of a constitutional right affecting the conviction, nor a debatable procedural ruling, a certificate of appealability is not issued.

A Judgment dismissing this action will be entered contemporaneously with this Order.

This the 6th day of May, 2020.

William L. Osburn, Jr.
United States District Judge